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Center for the Study of
the American Electorate*

TESTIMONY

of

CURTIS GANS, DIRECTOR

CENTER FOR THE STUDY OF THE AMERICAN ELECTORATE

at

AMERICAN UNIVERSITY

to the

COMMITTEE ON HOUSE ADMINISTRATION

U.S. HOUSE OF REPRESENTATIVES

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My name is Curtis Gans. I am presently the director of the Center for the Study of the American Electorate at American University. For the past 31 years, first as the director of the independent non-partisan, non-profit Committee for the Study of the American Electorate and now in its reincarnation at American University, I have been studying voter participation in the United States and have become a principal source of data, information and analysis with respect to registration, voting and the reasons why people do or do not vote.

I want to thank the chairman and ranking minority member for inviting me to participate in this hearing, the staff for being unfailingly helpful and the members in attendance for being part of this hearing.

There are times when for the best of reasons people put forward the worst in public policy. The most egregious example of this was, perhaps, the decision to involve ourselves militarily in the civil war in Vietnam. On a much smaller scale, this is the situation facing this committee with respect to legislation which would seek to encourage no excuse absentee and mail voting.

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The people who propose such legislation have the benign or even meritorious intent of enhancing voter participation. But the methods they are proposing have been shown to have precisely the opposite result and to pose other serious problems for the health and integrity of the conduct of elections.

1. No Excuse Absentee Voting Hurts Voter Turnout: My organization has been tracking no excuse absentee voting and early voting since 1992 or since those changes in the voting process have been adopted in an every widening number of states. What we have done is aggregate the states with the reform in question (either no excuse absentee voting or early voting – voting prior to election day in person at locations of convenience selected by those running elections – or both) and the states which had not, in each given election year, adopted these changes. With one exception, the election of 1998, the states which had adopted no excuse absentee voting either performed no better or, more often, worse, than the states which did not adopt these changes. Which is to say that in years in which voter turnout was higher than the previous election (in both mid-term and Presidential election years), the states which adopted no excuse absentee voting had lesser increases than the states which had not adopted this change. In years when turnout went down in comparison to the previous election year, the declines in states which adopted no excuse absentee voting were greater than those which did not adopt this change.

This should not be surprising for two reasons – with the exception of Oregon with its all- mail ballot and Washington (for the past few elections) and California now which allow citizens to apply for permanent absentee status and get their ballots routinely mailed to them – the people who avail themselves of the no excuse absentee ballots are likely to have been regular voters at the polls, since they would need to request an absentee ballot. And some of them will likely have forgotten they had the ballot by Election Day. Equally important is that while some political consultants may like no excuse absentee balloting because it allows them to track who of their particular set of likely voters for their side has and has not voted and enables them to follow up with those who haven't, the larger impact of no excuse absentee voting is to diffuse mobilization activities which formerly were concentrated on getting out the vote on one day over a period of several. This, in turn, reduces the impact of those activities and makes them both less forceful and less efficient.

2. Oregon's All-Mail Voting System Either Hurts Turnout or Has a Null Effect: The reform first went into effect in the special election in which Sen. Ron Wyden defeated Sen. Gordon Smith. Because it was a special election and there were no other statewide special elections in recent Oregon history and very few in other states with which to draw comparisons, whatever conclusions that various groups (including mine) and academics put forward about the impact of mail voting on turnout in that election need to be taken with several grains of salt. But after that election, the impact (or lack thereof) of the mail voting can be evaluated. The first comparable election in which it was used was the 1998 statewide primary which had a turnout which was the lowest in Oregon's history. The 1998 general election had the lowest turnout since World War II. The 2000 Presidential primary was the lowest ever as was the 2000 primary for other

statewide offices. In the 2000 general election, Oregon's turnout performance was very slightly better than the nation average (up 2.81 percentage points as compared to 2.77 for the national as a whole), but it was lower than the average turnout increases for battleground states (of which it was one) and there were 26 states which had greater percentage point increases in turnout since 1996 and none of those had adopted the all-mail ballot. In 2002, the turnout in the statewide primary was the fourth lowest in the state's history and six states which did not adopt mail voting had greater increases in turnout from 1998 than Oregon. Turnout in the 2002 general election was the third lowest since World War II – higher only than the 1998 and 1974 general elections in the state. Turnout in the 2004 Presidential primary was the lowest ever for such a primary. Turnout in the 2004 general election was the highest in the state since 1960, but while the turnout increase (as compared to the 2000 Presidential election) was greater than the national average, it was slightly below the average of battleground states and ten states had greater increases than Oregon without resorting to the mail ballot. The 2006 statewide primary had the second lowest turnout in Oregon's history. The turnout in the general election was on a par with turnouts (higher than some and lower than others – all narrow differences) back to 1966 when turnouts were all higher than 2006 after World War II. All of which is to suggest that whether one wants to adopt mail balloting or not, turnout effect is NOT a good argument for its enactment.

(It should be noted that the Oregon Secretary of State's office tends to claim a greater turnout impact, but they use registration for their denominator which is a very unsound figure to use. If one purges the registration lists close to election, the percentage of those registered who vote appears higher. If like Alaska and Maine, the number of citizens on the registration lists exceeds the number of citizens 18 years of age and older, turnout of registered would tend to be quite low. The only consistent base to look at turnout is as a percentage of eligible citizens.)

3. Mail and No Excuse Absentee Voting Are an Invitation to Fraud and Manipulation: The effect of these two approaches is to, in essence, eliminate the secret ballot (albeit only when someone wants their ballot not to be secret). But this is an invitation to vote buying. Also, in states where someone other than the person casting a vote may deliver a ballot, these approaches are an invitation for the person so delivering to discard a ballot if the political preferences of the person casting the ballot are not congruent with the ballot deliverer. And, these procedures can and will lead to what may be called the pressured vote – where citizens are invited to ballot signing parties in a living room of one of their peers, where for any number of reasons the citizen is asked to fill out his or her ballot a certain way, something that is hard to resist in public amongst one's peers but easy to resist behind the curtain at a polling place.

4. Citizens Who Cast An Early Vote Could Be Voting On A Very Different Set Of Issues Than Those Who Vote On Election Day: Imagine if on the weekend before the 2004 election day Osama Bin Laden had been captured or there was a domestic terrorist attack or the stock market had crashed or there was a valid revelation of moral turpitude on the part of one of the major national candidates. There would have been between 20-25 million citizens who would have already cast irrevocable votes who

did not have this important information upon which to make their voting judgments. In 1992, this happened in a perhaps less dramatic way. Ten days before Election Day, Ross Perot was on 60 Minutes and accused the Bush White House of sabotaging his daughter's wedding. This probably didn't say anything about the Bush White House but did say something about Perot's level of paranoia. But those who voted before that Sunday did not have that information. The Friday before the election former Defense Secretary Casper Weinberger was indicted on a bill of particulars that indicated that President George H. W. Bush lied about his knowledge of and involvement in the activities which had become to be known as Iran-Contra. Those who voted prior to that Friday did not have this information. When casting our votes, we all should have the same base of information, unless we cannot physically – either for reasons of infirmity or real absence from the place of voting – cast our ballots.

5. Eliminating One of the Only Remaining Communal Acts: For some this consideration may seem unimportant. But we have so fragmented and atomized our society – through a media which makes people spectators and consumers; through our growth patterns which undermine community, through our politics and its wedge issues – that we have perhaps only two communal acts left – gathering to watch fireworks on the 4th of July and gathering with our peers at the polls to perform the most basic act of citizenship. We should think twice before making this rite obsolete.

When I was in Marine Corps boot camp, my senior drill instructor often said to us whenever we were flustered, “Do something, even if it's wrong.” The impulse to try to do something about the level of voting in America in which we stand 139th out of 172 democracies in the level of voting is strong. But the approaches being contemplated in this legislation are wrong.

It will be hard to roll back these unfortunate innovations in the states that have adopted them. The people who most avail themselves of no excuse absentee voting tend to be middle class, upper middle class and upper class citizens who like the convenience despite the dangers that these approaches pose to the health of the American political system. In the states which have adopted one or more of these innovations, rolling them back will likely take a major incidence of fraud or a major event occurring after a large percentage of voters have cast their ballots and before the elections. But we need not, as is contemplated here, spread bad public policy beyond its existing confines.

Are there procedural fixes that might, in minor ways, enhance turnout? The answer is, “Yes,” if the expectations are not too high. We could provide sufficient machines at polling places to eliminate long lines. Every state could and should have New York's hours – from 6 a.m. to 9 p.m. or three hours on each side of the working day. Every state should have the type of voter pamphlets which exist in several western states – which give the biographies and self-ascribed issue positions of all the candidates and the pros and cons of ballot propositions. We should explore spreading the experiment which was started in Larimer County, Colorado of voting kiosks where citizens can vote in person at centralized places and get the ballot particular to their voting precinct. We can expand on the work of the National Association of Secretaries of State and the League of

Women Voters in making it possible for citizens to type their address into a computer and get their polling place, in the same manner as one can get a zip code. And, if we wanted to do something larger not only for voting but also for national security, immigration reform, identity theft protection – among other things – we could mandate a national biometric identification card for all those both in and coming to the United States provided by the government. This would, in the voting arena, eliminate registration and eliminate all forms of potential fraud, save vote buying and election official malfeasance.

But, the evidence is clear. The principal cause of the low level of American voter turnout is not procedure but rather motivation. With the exception of the polarizing elections of 1992 and 2004, American voter turnout has been declining since 1960 despite continuing and successful efforts to make it easier to vote. On the other side of the coin, in 1992 and 2004 citizens stood in lines for eight or more hours in unfavorable weather conditions to cast their ballots. While we should do something about eliminating long lines at the polls, it is clear that the public will turn out when they believe that something important is at stake.

We will durably improve voter turnout, not through procedural gimmicks but rather through improvements in the macrocosm of American politics – in the quality of our education, the quality and quantity of civic education, the restoration of strength and sound alignment of our political institutions, in a renewed sense of responsibility in our media, in better conduct of our campaigns, in the promotion of civic values and in the restoration of trust in our leadership through the rekindling of perceived responsibility of our leaders in restoring that trust through their conduct, among other things. Then perhaps we will restore the religion of civic duty and responsibility which no longer exists nor motivates citizens to vote.